IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 273 of 2005

Amarsingh Babu Gaud .. Petitioner

versus

Ambernath Municipal Council .. Respondent

...

Mr.Mahesh Thorat for the petitioner.

Mr.B.B. Joshi for the respondent.

CORAM : D.G. KARNIK, J

DATED : 14th December 2006

P.C.:

1. Heard learned counsel for the petitioner and respondent.

2. This contempt petition has been filed alleging that respondent has committed breach of the order dated 15th February 2005 passed by a Division Bench of this Court in Writ Petition no.7798 of 2004.

3. The respondent filed a complaint before the labour court under Maharashtra Recognition of Trade Unions and Unfair Labour Practices Act 1971 alleging unfair labour practice and alleging that terminatin of his services were wrongful. By an order dated 24th December 1993, the labour court allowed the complaint and directed reinstatement of the petitioner in service with full backwages and continuity in service. That order was confirmed by a Division Bench of this Court in Writ Petition no.7798 of 2004.

4. Learned counsel for the petitioner submitted that the order of the Division Bench has been complied in all respects except payment of wages as per the fifth pay commission. No averment is made in the contempt petition that the petitioner is entitled to the pay as per the fifth pay commission. Learned counsel for the respondent states that employees of the municipal corporation are not granted benefits of fifth pay commission. Whether the petitioner is entitled to the benefits of the fifth pay commission is a disputed question of fact. Whether the petitioner was entitled to the benefits of fifth pay commission or not cannot be considered in the absence of appropriate pleadings and too in the contempt petition.

5. Since the petitioner has admitted that the order of reinstatement has been complied with in totality except the alleged entitlement of the benefits under the fifth pay commission, it cannot be said that the respondent has committed any wilful breach of the order passed by this Court. For these reasons, contempt petition is dismissed.

(D.G. KARNIK, J)